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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,085	07/21/2003	Mark Kelley	03-40118-US	6000

7590 06/06/2008
REDD SMITH LLP
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EXAMINER

LU, CHARLES EDWARD

ART UNIT	PAPER NUMBER
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2161

MAIL DATE	DELIVERY MODE
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06/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/624,085</p>	<p>Applicant(s) KELLEY ET AL.</p>	
	<p>Examiner CHARLES E. LU</p>	<p>Art Unit 2161</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Etienne P LeRoux/
Primary Examiner, Art Unit 2161

Applicant's request for reconsideration was fully considered. The examiner respectfully disagrees with Applicant's arguments, and a summary of the examiner's response is provided below to clarify the Final Action:

Claim 1

As to the argument regarding "actual/user characteristics" – Again, the claims do not require that the claimed "user profile" be interpreted in the narrower way that Applicant intends.

As to "accessing the attribute vector over the network" – The user profile as defined by the examiner is understood to be "accessible" over the network if at least one part of it is accessible. Here, at least the database is accessible. Furthermore, "virtual database" is given its broadest reasonable interpretation.

Claim 6

It should be noted that claim 6 depends from claim 1. Claim 1 as modified teaches a mobile communications device. Note also that the rejection of claim 1 modifies Kramer to support a mobile communications device. Therefore, the rejection of claim 6 contains no contradictions or inconsistencies.

The word "monitoring" is given its broadest reasonable interpretation. Thus, having user transactions meets the limitation of "monitoring" because a user's transactions are monitored by recording the user transactions in some fashion. Furthermore, the user must be monitored if a consumer model of that user is to be generated at all.

The monitor (software) must output some kind of modification in order to update the consumer model. Since the consumer model contains "actual" (as opposed to "non-existing") user data and is updated, the limitation of "varying the actual user characteristic" is met. Note that the broadest reasonable interpretation is applied to the claims.

Claims 53 and 58

See Final Rejection, pp. 4-5.

Claim 59

Again, Kramer was modified in a parent claim to support a mobile communication device.

Regarding "behavior," the term is given the broadest reasonable interpretation. Here, the user's interests (e.g., gathered from various transactions while browsing the internet) are understood to be a user's general behavior. Therefore, the user's interests meet the claim limitation of "behavior." These interests are probabilistically modeled, as seen in the Final Action.

Claim 91

It should be noted that a computing system or any software component must contain a processor and "controller" to operate. Furthermore, the "controller" is given its broadest reasonable interpretation. Here, "controller" might read on a software module executed by a processor, which, again, must be present in Kramer with the claimed functionality.

As to "communication with the network," the cited portion of Kramer teaches "client side portion." Furthermore, the cited Fig. 6 shows the client communicating with other computers over the Internet. Thus, the communication medium must be some kind of network. Since there is a network, there must be a network interface or else communication cannot occur.

The citation supporting "estimate" can be found a few lines down from the word "estimate" in the Final Action. For example, see cols. 21-32 regarding how Kramer determines a (heuristic) confidence, and fig. 8, and col. 21, ll. 1-6 regarding the particulars of attribute vector mapping and sorting.

Claim 103

Regarding "wireless communication device," see the reasoning above. Kramer as modified would support such a device.

Regarding "first data bank," Kramer must have a data bank to store data. Note that "data bank" is given its broadest reasonable interpretation. It should also be noted that the rejection was made based on a combination of references, and the combination would store time and location in a first data bank to enhance the targeted advertising.

